



SO ORDERED.

SIGNED this 30 day of March, 2022.

A handwritten signature in blue ink, reading "David M. Warren".

David M. Warren
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION**

IN RE:

CASE NO. 22-00397-5-DMW

BAXLEY CORPORATION, LLC

CHAPTER 7

DEBTOR

**ORDER HOLDING BRANDON BAXLEY AND MARTHA BAXLEY IN CONTEMPT,
IMPOSING SANCTIONS, AND DIRECTING APPREHENSION
AND DETENTION OF BRANDON BAXLEY**

This matter comes before the court upon the Order to Show Cause entered on March 21, 2022 directing Brandon Baxley, Martha Baxley, and Jonathan Keith (collectively, "Baxley Parties") to appear and show cause as to why they should not be held in contempt or sanctions imposed for failure to comply with the Order Directing a Rule 2004 Examination (DE#36) ("Rule 2004 Order") entered on March 10, 2022. The court conducted hearings on March 23, 2022 and March 30, 2022 in Raleigh, North Carolina. James B. Angell, Esq. ("Trustee") and Savannah E. Lavender, Esq. appeared for the Trustee in his capacity as Chapter 7 trustee for Baxley Corporation, LLC ("Debtor"), Travis Sasser, Esq. appeared for Brandon Baxley, James M. Hash, Esq. and William H. Kroll, Esq. appeared for Martha Baxley, and Brian C. Behr, Esq. appeared for the United States Bankruptcy Administrator ("BA"). At the request of the Trustee, Jonathan

Keith's hearing will be continued to a later date. Based upon the evidence presented and arguments of counsel, the court makes the following findings of fact and conclusions of law:

1. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) which the court has the authority to hear and determine pursuant to 28 U.S.C. § 157(b)(1). The court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 157(a) and 1334 and the General Order of Reference entered on August 3, 1984 by the United States District Court for the Eastern District of North Carolina.

2. The Debtor filed a voluntary petition for relief under Chapter 7 of the United States Bankruptcy Code on February 23, 2022, and the court appointed the Trustee to administer the case pursuant to 11 U.S.C. § 704.

3. On March 10, 2022, the Trustee filed a Motion for Examination Under Rule 2004 ("Rule 2004 Motion"), requesting the court to direct the Baxley Parties to produce to the Trustee the certain identified documents ("Rule 2004 Documents") pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure.

4. On March 10, 2022, the court entered the Rule 2004 Order, granting the Rule 2004 Motion and directing the Baxley Parties to produce the Rule 2004 Documents at 9:30 a.m. on March 16, 2022.

5. The Baxley Parties did not comply timely with the Rule 2004 Order, and on March 18, 2022, the Trustee filed the Trustee's Motion for Show Cause Order as to Why Brandon Baxley, Martha Baxley and Jonathan Keith Should Not be Held in Contempt of Court ("Show Cause Motion"). The court entered the Order to Show Cause on March 21, 2022.

6. While the Baxley Parties have produced some of the Rule 2004 Documents, the Trustee has not received the following documents (“Missing Rule 2004 Documents”) which he believes are in the possession or control of Brandon Baxley and Martha Baxley:

- a. Title to a BMW vehicle registered in the Debtor’s name;
- b. Title to a truck registered in the Debtor’s name;
- c. All communication involving the Debtor from any email account of Brandon Baxley, including, but not limited to, Brandon Baxley’s Gmail account and the account found at brandon@baxleycorp.com between January 1, 2018 to March 10, 2022;
- d. All outstanding purchase orders, invoices, accounts payable and contracts of the Debtor; and
- e. All of the Debtor’s corporate records that may be in the possession of Ronald J. Antonelli, Esq. requiring release authorization from Brandon Baxley.

7. The court agrees with the Trustee that Brandon Baxley and Martha Baxley have the ability to produce the Missing Rule 2004 Documents, and the court will hold Brandon Baxley and Martha Baxley in contempt pending full compliance with the Rule 2004 Order.

8. Brandon Baxley, who is the debtor in a separate Chapter 7 case before the court, Case Number 18-03406-5-DMW, has continuously delayed or evaded his responsibility to cooperate with appointed trustees and the BA and to comply with directions of the court. Brandon Baxley’s behavior warrants incarceration for civil contempt, necessitating the United States Marshals Service (“USMS”) to facilitate the incarceration. Sanctions against Martha Baxley will be imposed at a subsequent hearing after an affidavit of expenses is filed by the Trustee; now therefore,

It is ORDERED, ADJUDGED and DECREED as follows:

1. The court holds Brandon Baxley and Martha Baxley in civil contempt for their failure to comply timely with the Rule 2004 Order;
2. The USMS is directed to arrest and detain in custody Brandon Baxley until determination by the court that Brandon Baxley has purged his contempt by producing the Missing Rule 2004 Documents;
3. The USMS is given authority and directed to use all such necessary and reasonable actions as are legally available in the performance of the responsibilities set forth in this Order;
4. The Show Cause Hearing be, and hereby is, continued until 10:00 a.m. on April 13, 2022 at the United States Bankruptcy Court, Third Floor Courtroom, 300 Fayetteville Street, Raleigh, North Carolina. The Show Cause Hearing for Jonathan Keith will also be held at that time; and
5. The court will sanction the Baxley Parties for the Trustee's costs associated with the Show Cause Motion in an amount to be determined based upon an affidavit of the Trustee to be filed after final resolution of the Order to Show Cause.

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